



## **Zoning & Planning Committee Report**

### **City of Newton** **In City Council**

**Monday, November 28, 2016**

Present: Councilors Hess-Mahan (Chair), Danberg, Baker, Kalis and Yates

Absent: Councilors Sangiolo, Albright and Leary

Also Present: Councilors Lennon and Crossley

Planning & Development Board Present: Peter Doeringer, Jonathan Yeo, Megan Mierav and Barney Heath

City Staff Present: James Freas (Deputy Director, Planning Dept.), Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

#### ***A Public Hearing was held on this item:***

**#222-13(6)      Zoning amendment to further delay effective date of Garage Ordinance**  
**COUNCILORS ALBRIGHT, LENNON, CROSSLEY, DANBERG, LIPOF, FULLER AND COTE**  
proposing an amendment to Ordinance No. A-78, which amends Chapter 30, Section 3.4.4 of the Revised Ordinances, to implement a deferred effective date for the Ordinance of April 1, 2017. [10-31-16 @ 3:51 PM]  
**Action:            Hearing Closed; Zoning & Planning Approved 3-1-1 (Councilor Baker opposed; Councilor Hess-Mahan abstaining)**

**Note:** Councilor Hess-Mahan opened the public hearing on this item for the Zoning & Planning Committee and the Planning & Development Board opened their public hearing as well.

The effective date of Ordinance A-78, which was passed in June, was recently extended to December 31, 2016. This item, however, requests a further delay until April 1, 2017. President Lennon explained that there are other items on the agenda which offer amendments to the ordinance. It was felt, however, that there would not be ample time to comprehensively review those amendments so this item was docketed to allow time for that review.

#### **Public Comment**

*Peter Sachs* said he was an architect and supported the extension of the effective date of the ordinance. He is aware that many of his colleagues support some of the issues that initiated the ordinance. He also wanted to let the City Council know that they are willing and able to help clarify and improve the ordinance. He thanked them for their consideration to delay to allow input from the professional community.

*Treff LaFleche*, 1603 Commonwealth Avenue said he was also an architect and while this is his first comments on this issue, he has been following it closely. He encouraged the extension to allow for more time to thoroughly investigate the merits of the issue. He was a past member of the FAR working group and they spend a fair amount of time studying the empirical data that led to their recommendations for the changes to those regulations. This is a smaller issue, perhaps, but it still deserves in depth study.

*Jay Walter*, 83 Pembroke Street supported the delay of the ordinance. He felt the intent needed clarification and felt it should include a special permitting process. He also felt some of the design qualifications were too restrictive and the ordinance was not ready.

Councilor Yates moved to close the public hearing and the Committee voted in favor 5-0.

The Planning & Development Board moved to close their public hearing and voted in favor 4-0.

#### Committee Comments/Questions

Councilor Hess-Mahan explained that there would several different courses of action that could be taken on the agenda items: adoption of the amendments in #222-13(5), which have been discussed thoroughly in previous meetings; adoption of the delay of the ordinance through April 1, 2017 as proposed in #222-13(6); or adoption of a longer delay, for which there is no current docket item.

He felt that proper study and discussion of any amendments to the garage ordinance could not take place within the April 1, 2017 timeframe, which is why he will abstain from voting on this item. Considerable time has been devoted to the garage ordinance and there are many other important items to deal with on the Zoning & Planning agenda as well as the Zoning Redesign project and budget discussions which will come through Committee in April. Therefore, he has submitted a docket item to postpone the implementation of A-78 through December 31, 2017 or beyond if necessary. This would allow the Committee to work on other issues and the Planning Department and the Zoning Reform consultants time to finish their work. He will not take up any of the amendments that have been docketed until the Zoning Redesign work has been done. At that point, they can look at the new zoning ordinance and determine if it meets the needs of the community. If not, any and all amendments will be considered from any and all constituencies.

Councilor Baker stated that he would not support any further delay of the effective date of the ordinance. He felt the amendments were subject to considerable research and he supported them. This would leave the City with no controls at all pending future process of indeterminate length and outcome, notwithstanding all the best of intentions. The amendments being proposed in #222-13(5) would address the problems that have arisen and concerns that have been brought forward. These would at least give some interim measures to deal with the issues which brought the Committee to review the ordinance in the first place.

A Committee member asked if the garage ordinance could be worked on at the same time as the overall zoning project. Councilor Hess-Mahan stated that there are a number of items that he has not been able to put on a Zoning & Planning Agenda because of all the time that has been spent so far on this item. He is not willing to take up anything that is not part of the comprehensive redesign at this point.

Several Committee members asked how the garage ordinance work would be handled within the Zoning Redesign project. James Freas, Deputy Director of Planning, stated that garage requirements are a component of the zoning ordinance and will be looked at in the overall context. They will continue to reach out to architects and builders and community as they have done so far. There is an expectation of many more meetings as the drafting moves forward during the zoning redesign process. Open invitations are sent to professionals within the community and to anyone who is interested in any aspect of the project. There are regularly scheduled community meetings as well as special focus groups based on different subject matter issues such as small businesses, designers, etc. and mailing lists will be developed as the process moves forward. There is no single avenue for anyone to provide input. Everything will be put online and there are opportunities to comment on drafts online, or by calling the Planning Dept. There will be network outreach and a robust community engagement process.

It was asked what the schedule will be for the Zoning Redesign process. Mr. Freas said the schedule for the Pattern Book has been developed and runs through the end of January. They have not specified further scheduling for the spring and summer. The September/October timeframe is the goal for supplying a draft zoning ordinance for review by the City Council.

Information on the Zoning Redesign project may be found at  
[http://www.newtonma.gov/gov/planning/lrplan/zoning\\_redesign.asp](http://www.newtonma.gov/gov/planning/lrplan/zoning_redesign.asp)

The interactive website to share information and gather input on Zoning Redesign may be found at:  
<http://courbanize.com/projects/newtonzoning/comaps/32>

#### Follow Up

Councilor Hess-Mahan will assign a public hearing in a timely manner on the item he is docketing which extends the effective date to December 31, 2017.

Councilor Danberg moved approval of the item and Committee voted in favor 3-1-1 with Councilor Baker opposed and Councilor Hess-Mahan abstaining.

#### **#222-13(5) Zoning amendment to Garage Ordinance**

COUNCILOR HESS-MAHAN proposing to amend Chapter 30, Section 3.4.4. of Revised Ordinances as amended by Ordinance A-78, as follows: (1) allow front facing garages that are no closer to the front lot line than the longest front facing wall, or a front porch at least 6 feet wide, to be the greater of up to 12 feet wide or 50% of the total length of the building parallel to the street; (2) allow front-facing garages that

are closer to the front setback than the rest of the building and at least 24 feet from the front lot line to be up to 40% of the total length of the building parallel to the street; (3) delete Sec. 3.4.4.F "Exemptions"; and (4) add a provision grandfathering permits requested or construction begun on or after the date of the notice of public hearing on Ordinance A-78 [08/01/16 @ 4:58 PM]

**Public Hearing Closed on 9/26/16; 90 Days: 12/26/16**

**Action: Zoning & Planning Held 4-1-0 (Councilor Baker opposed)**

**Note:** Councilor Hess-Mahan asked for a straw vote on the amendments in this item. The Committee voted 1-2-2 with Councilor Baker in favor; Councilors Kalis and Danberg opposed; and Councilors Hess-Mahan and Yates abstaining. Based on the discussion, noted above, Councilor Hess-Mahan moved to hold this item and the Committee voted in favor 4-1-0 with Councilor Baker opposed.

**#222-13(7) Additional zoning amendment to Garage Ordinance**

COUNCILORS ALBRIGHT, LENNON, CROSSLEY, DANBERG, LIPOF, FULLER AND COTE proposing to amend Chapter 30, Section 3.4.4. of the Revised Ordinances as amended by Ordinance A-78, as follows: (1) limit the application of a maximum (45%) proportional width of garage to total building to all lots in MR districts; and/or (2) limit the application of a maximum (45%) proportional width of garage to total building to lots in SR districts having a maximum frontage of 70 feet; and/or (3) use the special permit process to determine exceptions providing clear and specific guiding criteria, such as preservation of historic properties, topography, odd lot configurations, preservation of certain natural features, etc., where such features may prohibit otherwise safe access to or parking on a site.

[10/31/16 @ 3:51 PM]

**Action: Zoning & Planning Held 4-0-1 (Councilor Baker abstaining)**

**Note:** Please see above notes. The Committee voted to hold this item.

**Respectfully Submitted,**

**Ted Hess-Mahan, Chair**